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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.441 OF 2000

Mr. Tukaram Bandu Ghodake ... Petitioner

Vs.

State of Maharashtra & Ors. ... Respondents

Mr. Dilip Bodake for the petitioner.

Mr. C.R. Sonawane, A.G.P. for respondents 1 to 4.

Mr. R.V. More for respondent 5.

CORAM: V.G. PALSHIKAR &
SMT. RANJANA DESAI, JJ.

DATED: 1ST SEPTEMBER, 2004.

P.C.:-

1. By this petition, the petitioner has challenged the acquisition proceedings in relation to land belonging to the petitioner on the ground that the pieces of land not mentioned in section 4 notification are wrongly included in the notification under section 6.

2. On 29/7/2004, when this petition came up for hearing, the following order was passed:

> "1. The contention raised by the petitioner in this petition mainly is that certain lands not mentioned in section 4 notification are subsequently included in the section 6 notification. A reply to that effect is necessary. Therefore, State to file the same in the next week."

3. In spite of opportunity so granted, no affidavit is filed. We are, therefore, constrained to accept, as true, the statement made on affidavit that the pieces of land not mentioned in section 4 notification are subsequently included in the notification under section 6 of the Act, which obviously cannot be done in law. Hence, the petition is allowed. Thus, the pieces of land which do not find place in section 4 notification be deleted from section 6 notification.

4. Petition is accordingly disposed of.

(V.G. PALSHIKAR, J.)

(SMT. RANJANA DESAI, J.)